

TOWN OF NORTH HAMPTON

Drug Paraphernalia Ordinance

Section 1. **Purpose:** The purpose of this ordinance is to establish a Drug Paraphernalia Ordinance for the Town of North Hampton.

Section 2. **Definitions:**

A. The term “drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of New Hampshire RSA 318-B. It includes but is not limited to:

- 1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- 2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- 3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- 4) Testing equipment used, intended for use, or designed for use in identifying, or analyzing the strength, effectiveness or purity of controlled substances;
- 5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- 6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use or customarily intended for use in cutting controlled substances;
- 7) Separation gins and sifters used or intended for use or customarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- 8) Blenders, bowls, containers, spoons, and mixing devices used or intended for use or customarily intended for use in compounding controlled substances;

- 9) Capsules, balloons, envelopes, and other containers used or intended for use or customarily intended for use in packaging small quantities of controlled substances;
- 10) Containers and other objects used or intended for use or customarily intended for use in storing or concealing controlled substances;
- 11) Hypodermic syringes, needles, and other objects used, intended for use or customarily intended for use in parenterally injected controlled substances into the human body;
- 12) Objects used or intended for use or customarily intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b) Water pipes;
 - c) Carburetion tubes and devices;
 - d) Smoking and carburetion masks;
 - e) Roach clips: meaning objects used to hold burning materials such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - f) Miniature cocaine spoons and cocaine vials;
 - g) Chamber pipes;
 - h) Carburetor pipes;
 - i) Electric pipes;
 - j) Air-driven pipes;
 - k) Chillums;
 - l) Bongs;
 - m) Ice pipes or chillers.

B. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all logically relevant factors, the following:

- a) Statements by an owner or by anyone in control of the object concerning its use;
- b) Prior convictions, if any, of an owner or of anyone in control of the object under any State or Federal law relating to any controlled substances;
- c) The proximity of the object, in time and space, to a direct violation of RSA 318-B;
- d) The proximity of any residue of controlled substances;
- e) The existence of any residue of controlled substances on the object;
- f) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of RSA 318-B; the innocence of an owner, or of anyone in control of the object, as to a direct violation of RSA 318-B

- should not prevent a finding that the object is intended for use, or designed for use, or designed for use as drug paraphernalia;
- g) Instructions, oral or written, provided with the object concerning its use;
 - h) Descriptive materials accompanying the object which explain or depict its use;
 - i) National and local advertising concerning its use;
 - j) The manner in which the object is displayed for sale;
 - k) Direct or circumstantial evidence of the ratio of sales of the object (s) to the total sales of the business enterprise;
 - l) Whether the object is customarily intended for use as drug paraphernalia and the existence and scope of other legitimate uses for the object in the community;
 - m) Expert testimony concerning its use.

Section 3. **Offenses and Penalties**

A. Possession of Drug Paraphernalia

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of RSA 318-B.

Any person violating this section shall be guilty of a violation and shall be subject to a fine not less than one hundred dollars (\$100.00), no portion of which shall be suspended.

B. Manufacture or Delivery of Drug Paraphernalia

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be used or is customarily intended to be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of RSA 318-B.

Any person violating this section shall be guilty of a violation and shall be subject to a fine not less than one hundred dollars (\$100.00), no portion of which may be suspended.

C. Delivery of Drug Paraphernalia to a Minor

Any person 18 years or over who violates Section 3B by delivering drug paraphernalia to a person under 18 years of age who is at least three (3) years his junior shall be guilty of a special violation and shall be subject to a fine not less than one hundred dollars (\$100.00), no portion of which may be suspended.

D. Advertisement of Drug Paraphernalia

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know that the purpose of the advertisement, when viewed as a whole, is to promote the sale of objects intended for use or customarily intended for use as drug paraphernalia.

Any person violating this section shall be guilty of a violation and shall be subject to a fine not less than one hundred dollars (\$100.00), no portion of which may be suspended.

Section 4. Severability

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

Section 5. Takes Effect

This ordinance shall take effect upon passage and publication of public notice as required by RSA 47:18.

Town of North Hampton (drafted June 18, 1999)

Selectmen:

_____	Date: _____
_____	Date: _____
_____	Date: _____

Adopted: _____

Received and Recorded this _____ day of _____

PROPOSAL FOR DRUG PARAPHERNALIA ORDINANCE

01/07/2000

The Drug Paraphernalia Ordinance was drafted in June 1999 to further compliment the State Laws, provide a safer environment for the Town of North Hampton, and to speed up the disposal of drug cases and its evidence. A large percentage of the drug cases that are brought by the North Hampton Police Department to the Hampton District Court are matters of drug paraphernalia.

The ordinance would be a benefit for the following reasons:

- 1) In the State of New Hampshire, a person can be charged with a Misdemeanor crime of Possession of a Controlled Substance with any amount of a drug. If an officer should find a smoking pipe on a person and it has residue, example marijuana, the person is arrested and charged with Possession of a Controlled Drug.
 - a) In past experience, most people would be willing to plea to a charge of Possession of Drug Paraphernalia which is a violation, instead of the Possession of a Controlled Substance which is a Misdemeanor.
 - b) Because of employment purposes, applications often ask if the person applying has been convicted of a misdemeanor or greater. If the possibility of a misdemeanor conviction could prohibit future employment or current employment, persons are more likely to take a case to trial, thus the prosecutor and arresting officer being tied up in one case for several weeks/months.
- 2) Drug case are lengthy.
 - a) Drugs/paraphernalia w/ residue have to be transported to the State Forensic Lab in Concord to be tested to be proved it is a drug, even if the person being charged states it is a drug or used for drugs.
 - b) Transporting one item in one drug case ties up one officer from the North Hampton Police department due to transport for approximately 2 ½ hours, usually the one detective that the police department employs.
 - c) It is usually more than three months for the lab to get results back to a police department due to the backlog at the lab.
 - d) Due to waiting for the results from the lab, the prosecutor has to continue or keep continuing the case until we get the results which could be weeks/months.
- 3) Evidence handling.
 - a) Drugs have to be kept in evidence until the disposal of the case. Even when the case is disposed, an evidence officer has to type up motions to have the drugs/paraphernalia to be destroyed.
 - b) If a person is pleaing to a drug paraphernalia charge, that person could also grant a written motion at the hearing for the item to be destroyed. Drug paraphernalia would not have to be sent to the lab if the person pleas to the violation of the ordinance.
 - c) The disposal of the paraphernalia would lessen the chain of custody when handling evidence, and clear up the evidence room in a shorter period of time not leaving an extended drug cases' evidence forgotten.
- 4) Fines imposed by a Town Ordinance go into the towns' general fund, where fines imposed under the State Law go to the State.
 - a) If a person has in their possession as an example, a bag of marijuana and a smoking pipe with marijuana residue, the person could be charged with two things: Possession of a Controlled Drug and Possession of Drug Paraphernalia. In this instance Guilty findings on each would be a fine to be paid to the State on the first charge, and a fine to be paid to the Town of North Hampton on the second charge.
 - b) The proposed fine for the ordinance is "not less than \$100 dollars." As such, for every Drug Paraphernalia charge and conviction, is another \$100 to the towns general fund.
- 5) Drugs and Drug Paraphernalia are found within the limits of the Town of North Hampton, and the drug problem in the surrounding areas is evident. Drugs and its related paraphernalia pass through North Hampton every day via vehicle on Route 1A, Route 1, and Interstate 95, from Massachusetts to Maine. This ordinance would show that the Town of North Hampton is against drugs.

